

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**May 26, 2008**

There are no minutes for this date.

**May 27, 2008**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Raye, Associate Justice; and Haskett, bailiff.

**C055327 CALIFORNIA CORRECTIONAL PEACE OFFICERS' ASSOCIATION et al. v. SCHWARZENEGGER, as Governor, etc. et al.**

Cause called. Thomas Patton, Deputy Attorney General, argued for appellant. Richard D. Martland argued for appellant Amicus Deukmejian et al. Laurie Hepler argued for and Gregg Adam appeared only for respondent CCPOA. No appearance was made by SEIU. Cause submitted.

At 10:39 a.m., the court recessed. At 10:44 a.m., the court reconvened with Raye, Associated Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C054324 WALTRIP v. KIMBERLIN et al.; WELLS FARGO BANK**

Cause called. Roger W. Sleight argued for appellants. Steven B. Mains argued for respondent. Cause submitted.

At 11:15 a.m., the court recessed. At 2:03 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C053762 SINGH v. LIPWORTH**

Cause called. Steven Finley argued for appellant. Raj Singh argued for respondent in pro per. Cause submitted.

At 2:33 p.m., the court recessed. At 2:39 p.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C057766 THE PEOPLE v. THE SUPERIOR COURT OF YUBA COUNTY; SPARKS**

Cause called. George M. Hendrickson, Deputy Attorney General, argued for petitioner. Justin B. Scott argued for real party in interest. Cause submitted.

At 3:05 p.m., the court recessed until 9:30 a.m., Monday, June 16, 2008.

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**Court Minutes**

**May 27, 2008 continued**

- C054954      THE PEOPLE v. JACKSON      (Certified For Partial Publication)**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur: Davis, Acting P.J.  
Morrison, J.
- C056234      FOX as Trustee, etc. v. HUGHES      (Not For Publication)**  
The order removing Brandon as trustee is reversed, and the case is remanded to the superior court for further proceedings. Brandon shall recover his costs on appeal.  
ROBIE, J.  
We Concur: Nicholson, Acting P.J.  
Butz, J.
- C054387      SAN JOAQUIN COUNTY DEPARTMENT  
OF CHILD SUPPORT SERVICES v. WINN      (Certified For Publication)**  
The appeal is dismissed.  
ROBIE, J.  
We Concur: Sims, Acting P.J.  
Butz, J.

**May 28, 2008**

- C053801      THE PEOPLE v. PADGETT      (Not For Publication)**  
The judgment is affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Sims, J.
- C054281      THE PEOPLE v. NELSON      (Not For Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We Concur: Scotland, P.J.  
Butz, J.
- C055649      THE PEOPLE v. RIFFEY      (Certified For Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We Concur: Sims, Acting P.J.  
Raye, J.

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**Court Minutes**

**May 28, 2008 continued**

**C056320      THE PEOPLE v. MASOTTI      (Certified For Partial Publication)**

The order granting a new trial is reversed and the case is remanded to the trial court for sentencing.

ROBIE, J.

We Concur: Morrison, Acting P.J.  
Butz, J.

**C056420      THE PEOPLE v. SHEPHERD      (Not For Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur: Sims, Acting P.J.  
Raye, J.

**C056890      THE PEOPLE v. WOODS      (Not For Publication)**

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to include the \$60 court security fee--\$20 on each case (Pen. Code, § 1465.8) - -and to provide a breakdown of the two \$157.50 criminal laboratory fees in case Nos. 06F8548 and 06F5110- -each consisting of \$50 (Health & Saf. Code, § 11372.5); \$50 (Pen. Code, § 14464); \$10 (Pen. Code, § 1465.7); \$5 (Gov. Code, § 76104.6); \$7.50 (Gov. Code, § 70372); and \$35 (Gov. Code, § 76245). A certified copy of the corrected abstract shall be forwarded to the Department of Corrections and Rehabilitation.

BUTZ, J.

We Concur: Blease, Acting P.J.  
Hull, J.

**C054605      STEINER v. THEXTON as Trustee etc.;      (Certified For Publication)  
SIDDQUI FAMILY PARTNERSHIP**

The judgment and attorney's fee award are affirmed. Defendant shall recover costs on appeal. ...

SIMS, Acting P.J.

We Concur: Nicholson, J.  
Cantil-Sakauye, J.

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**Court Minutes**

**May 28, 2008 continued**

- C055298      HERITAGE FRESNO et al. v.      (Not For Publication)**  
**REDEVELOPMENT AGENCY OF THE**  
**CITY OF FRESNO; CITY OF FRESNO;**  
**OLD ARMENIAN TOWN, LLC**  
The judgment is affirmed. Respondents Heritage Fresno and Friends of Old Armenian Town shall recover costs on appeal. ... Although real party in interest Old Armenian Town, LLC, is labeled a respondent on appeal, it is not entitled to recover costs because it has not filed an appellate brief, and its interests (as developer of the Old Armenian Town Project) are aligned with the losing appellants.  
SIMS, Acting P.J.  
We Concur: Nicholson, J.  
Hull, J.
- C055471      LANGE v. SCHILLING et al.      (Not For Publication)**  
The judgment (order) is reversed. Defendants are awarded their costs on appeal.  
HULL, J.  
We Concur: Davis, Acting P.J.  
Cantil-Sakauye, J.
- C055665      In re AMY T. et al.; SISKIYOU COUNTY      (Not For Publication)**  
**HUMAN SERVICES DEPARTMENT v.**  
**MARILYN T.**  
The orders of the juvenile court are affirmed.  
HULL, J.  
We Concur: Davis, Acting P.J.  
Nicholson, J.
- C057124      In re A.R.; SACRAMENTO COUNTY      (Not For Publication)**  
**DEPARTMENT OF HEALTH AND HUMAN**  
**SERVICES v. M.R.**  
The appeal is dismissed.  
BUTZ, J.  
We Concur: Morrison, Acting P.J.  
Cantil-Sakauye, J.

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**Court Minutes**

**May 28, 2008 continued**

**C057360**      **In re BRIAN C.; EL DORADO COUNTY  
DEPARTMENT OF HUMAN SERVICES v.  
LINDSAY P. et al.**      **(Not For Publication)**

The juvenile court's orders are affirmed.

MORRISON, J.

We Concur:    Raye, Acting P.J.  
                 Butz, J.

**May 29, 2008**

**C055138**      **THE PEOPLE v. WATSON**      **(Not For Publication)**

Defendant's sentence for stalking (count 7) is modified to reflect a sentence of eight months, reducing his total sentence to seven years and four months. The trial court is directed to amend the abstract of judgment in accordance with this opinion and is further directed to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

SIMS, Acting P.J.

We Concur:    Davis, J.  
                 Raye, J.

**May 30, 2008**

**C056962**      **THE PEOPLE v. BACY**      **(Not For Publication)**

The judgment is affirmed.

MORRISON, J.

We Concur:    Blease, Acting P.J.  
                 Sims, J.

**C057093**      **THE PEOPLE v. KEVER**      **(Not For Publication)**

The judgment is affirmed.

BUTZ, J.

We Concur:    Blease, Acting P.J.  
                 Hull, J.

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**Court Minutes**

**May 30, 2008 continued**

**C055050      CAMPAGNONE et al. v. ENJOYABLE      (Certified For Publication)**  
**POOLS & SPAS SERVICE & REPAIRS, INC.,**  
**et al.**

BY THE COURT:

The motion for sanctions is denied.

FOR THE COURT:

SCOTLAND, P.J.

Sims, J.

Butz, J.

**C055406      HUDSON v. FIRE INSURANCE      (Not For Publication)**  
**EXCHANGE**

The judgment is reversed. The order denying leave to amend is reversed. The trial court is directed to grant Hudson leave to file a second amended complaint against FIE alleging a single count for breach of the homeowner's policy in failing to pay for damage to the tractor. The parties shall bear their own costs of this appeal. ...

BUTZ, J.

I concur: Morrison, J.

I concur in the majority opinion:

I write separately to state that in my view, plaintiff's first cause of action, for bad faith against Fire Insurance Exchange, does not state a cause of action as a matter of law, either as pleaded or as represented by plaintiff on appeal. ...

Sims, Acting P.J.

**C056134      In re MICHAEL M.; PLUMAS COUNTY      (Not For Publication)**  
**DEPARTMENT OF SOCIAL SERVICES AND**  
**PUBLIC GUARDIAN v. AARON M.**

The order terminating parental rights is vacated, and the matter is remanded to the juvenile court with directions to order the juvenile court and DSS to make inquiry pursuant to ICWA and, if necessary, to comply with the notice provisions of ICWA. If, after proper and complete notice, as provided, a tribe determines the minor is an Indian child as defined by ICWA, the juvenile court is ordered to conduct a new Welfare and Institutions code section 366.26 hearing in conformity with all provisions of ICWA. If, on the other hand, no response is received or the tribes determine the minor is not an Indian child, then all previous findings and orders shall be reinstated.

BLEASE, Acting P.J.

We Concur: Sims, J.

Morrison, J.

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**Court Minutes**

**May 30, 2008 continued**

**C058142      TYRONE B. v. SUPERIOR COURT OF      (Not For Publication)  
SACRAMENTO COUNTY; THE PEOPLE**

We shall lift the stay, and issue a peremptory writ directing the juvenile court to vacate its ruling deferring its decision on petitioner's request to declare a doubt as to his competency and to consider the declaration of a doubt as to his competency in accord with rule 5.465 (d) of the California Rules of Court.

SIMS, Acting P.J.

We Concur:    Raye, J.  
                     Hull, J.